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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/626,975 | 07/25/2003 | Charles C. Wang | | 3973 |

7590
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06/06/2005

EXAMINER

BRITTAIN, JAMES R

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| ART UNIT | PAPER NUMBER |
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3677

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,975

Applicant(s)

WANG, CHARLES C.

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION***Priority***

If applicant desires benefit of a previously filed application under 35 U.S.C. 119(e), specific reference to the earlier filed application must be made in the instant application. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications. This should appear as the first sentence(s) of the specification following the title, preferably as a separate paragraph unless it appears in an application data sheet. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. ____" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

While applicant has indicated that this non-provisional application corresponds to two provisional applications. Applicant has not claimed priority or sought benefit of the provisional applications. See MPEP 201.11 which states:

B. Reference to Prior Provisional Applications

When the nonprovisional application is entitled to an earlier U.S. effective filing date of one or more provisional applications under 35 U.S.C. 119(e), a statement such as "This application claims the benefit of U.S. Provisional Application No. 60/---, filed ---, and U.S. Provisional Application No. 60/ ---, filed ---." should appear as the first sentence of the description or in an application data sheet.

If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because the use of legal terminology such as "invention" should not appear in the abstract, which is a summary of the technical disclosure. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: The very personal information found on in the last paragraph on page 2 of the specification through the beginning of page 3 must be removed. Problems with the prior art are discussed impersonally without reference to any identifiable individual. Patent applications become public documents and highly personal information should not be placed in the specification. A technical disclosure stands on its own and it is respectfully submitted that events of a highly personal tragedy do not further the disclosure.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title is too long and a new title such as --Stretchable and Adjustable Straps for Adult Incontinence Garments-- is suggested.

Claim Objections

Claims 4 and 5 are objected to because of the following informalities: The spelling of "tape" should be corrected in these claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4 and 5 contains the trademark/trade name Velcro or 3M. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe hook and loop material and, accordingly, the identification/description is indefinite.

Regarding claims 1, 4 and 5, the phrase "-type" renders the claim indefinite because it is unclear what structure is being claimed as a part of the claimed invention. See MPEP § 2173.05(d).

Parenthetical phrases such as those in claims 4 and 7 render the claims indefinite because it is unclear if the parenthetical phrase is a part of the claimed subject matter or not.

Claim 4 is unclear since it is not particularly pointed out that the scope of claim 1 includes a non-plush side.

The remaining claims are indefinite because they depend from indefinite claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuen et al. (US 5386595) in view of Hahn (US 5142743).

Kuen et al. (figures 8, 9) teaches a stretchable and continuously adjustable strap comprising an elastic belt (col. 15-16) with one side plush and formed with loop material and hook material formed on the ends of the belt. The belts are sizable as wished for incontinence garments or for babies. The belts are threaded through apertures in the garment and joined in the same manner as applicant's device. The difference is that loop material is formed only on one surface. It would have been obvious to duplicate the features of figure 8 of Kuen et al. on both sides of the strap in view of Hahn (figure 3A) teaching that it is desirable to so for added versatility. In regard to claims 2, 3 and 7, the belts of Kuen et al. are used in the same field of endeavor as applicant's device and would be sized accordingly as it is well known in this field as a visit to any store will demonstrate to provide different sizes for different sized people. As to claims 4 and 5, while the loop material of Kuen et al. and Hahn covers the entire strap, it also covers the particular locations one-third of the way from either end and thereby meets the

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location claimed. There is no limitation in claims 4 and 5 that prevent the belts from being covered with loop material and the combination of the teachings of Kuen et al. and Hahn results in a final product meeting the language of applicant's claims. As to claim 6, the straps of Kuen et al. are inherently connectable if so desired.

Conclusion

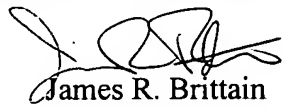
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Ferguson (US 3351062, figures 1, 4), Lewis (US 6698031, figures 1, 5), Kuen (US 5304162, figure 1; US 5423789, figure 1), Keuhn et al. (US 5374262, figure 7), Henry et al. (US 6606768, figure 1), Stewart (US 4858249, figure 2), Hall (US 4481682, figure 1), Tharpe (US 5870778, figure 2), Bolick (US 4315508, figures 1, 5) and Smithers et al. (US 3480012) teach pertinent strap structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain
Primary Examiner
Art Unit 3677

JRB